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# Supreme Court of the United States

October Term, 1968

No. [redacted] #5518

In the Matter of the Application of
MARTIN ROBERT STOLAR
for Admission to the March, 1969,
Ohio Bar Examination

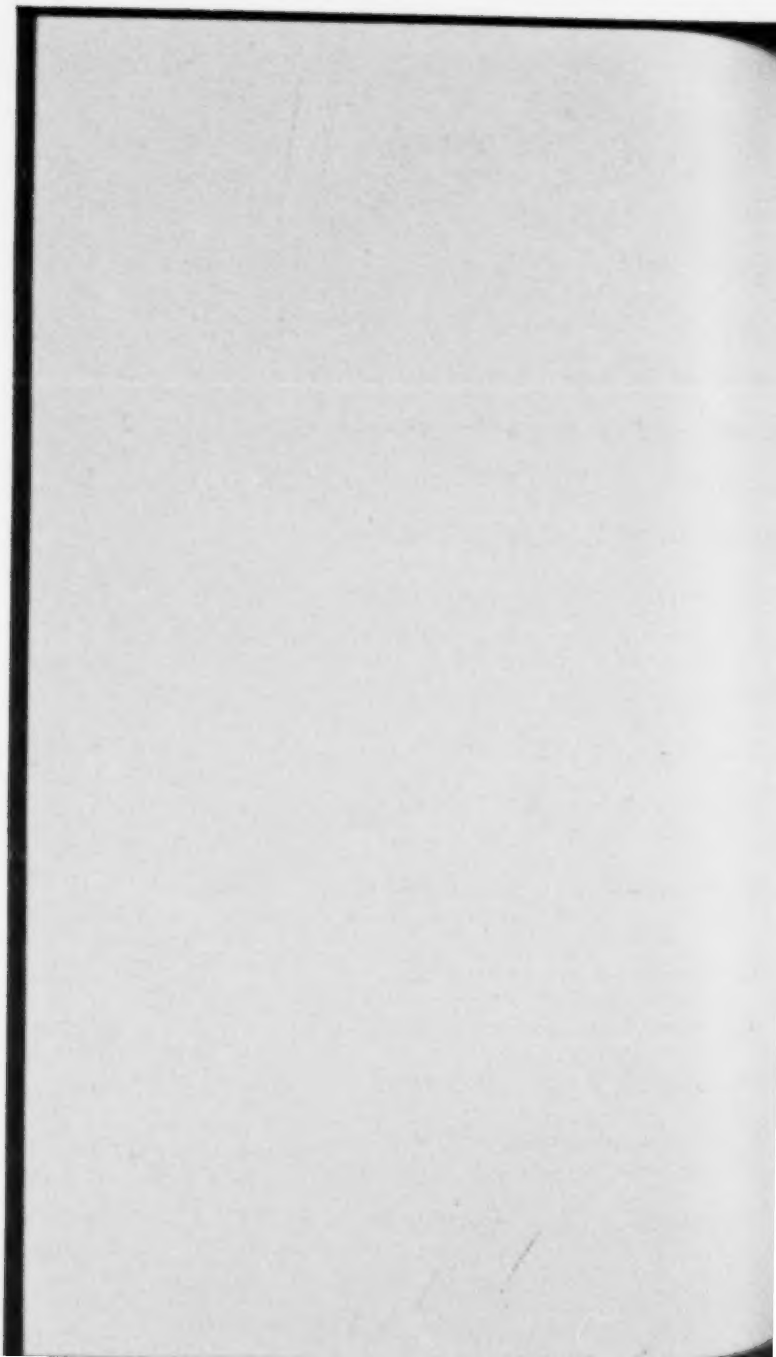
## PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OHIO

Leonard B. Boudin
Rabinowitz, Boudin & Standard
30 East 42nd Street
New York, New York 10017

William Boyland
78 East State Street
Columbus, Ohio

*Attorneys for the Petitioner*

David Rosenberg,
*of Counsel.*



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SUPREME COURT OF THE UNITED STATES

October Term, 1968

No.

In the Matter of the Application of
MARTIN ROBERT STOLAR
for Admission to the March, 1969,
Ohio Bar Examination

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## PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OHIO

Petitioner respectfully prays that a writ of certiorari issue to review the final order of the Supreme Court of the State of Ohio entered herein on February 27, 1969, approving the recommendation of the Committee on Admissions of the Columbus Bar Association (hereinafter the "Committee") denying petitioner's application.

### Opinion Below

The order of the court below was accompanied by an unreported memorandum opinion, *infra* at p. 23. The Committee's recommendation to the court below on February 20, 1969, is appended hereto, *infra* at p. 25.

### Jurisdiction

The final order of the Ohio Supreme Court was made and entered on February 27, 1969, and is appended hereto, *infra* at p. 23. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(3).

## Questions Presented

Does the compelled disclosure by applicants for admission to the Ohio Bar of their political and personal activities, beliefs, and associations

(1) violate through overbreadth and otherwise their freedom of speech and association and their right to privacy under the First and Fourteenth Amendments to the Constitution;

(2) interfere with the right to counsel and freedom of speech and association of a class of litigants who seek redress of their federal rights and the right of attorneys to practice law in the federal courts in violation of Articles Three and Six of the Constitution and the First, Sixth and Fourteenth Amendments;

(3) deny their rights to due process and to freedom from unreasonable search and seizure under the First, Fourth and Fourteenth Amendments where the state's inquiry is made to all applicants and is not based upon probable cause arising from facts peculiar to the individual applicant;

(4) violate their rights to due process and freedom of speech, association and belief by placing upon them the burden of proving lawful membership in an organization claimed to be advocating governmental overthrow;

(5) violate the void for vagueness principle of the First and Fourteenth Amendments insofar as it demands the details of membership in organizations advocating governmental overthrow;

(6) violate the constitutional privilege against self-incrimination where answers are compelled under oath, overriding the applicant's assertion of the privilege?

## Constitutional and Regulatory Provisions Involved

The principal constitutional provisions involved are Articles Three and Six of the United States Constitution and the First,

Fourth, Fifth, Sixth and Fourteenth Amendments thereto. Rule XVII of the Rules of the Supreme Court of Ohio, entitled, "Admission to the Practice of Law," the only published State regulatory provision applicable to this case, is set forth *infra* at pp. 16-22.

**Statement of the Case**

Petitioner is twenty-five years old, a graduate of New York University Law School in June, 1968, a member of the New York Bar, and presently assigned to the Columbus (Ohio) Metropolitan Area Community Action Organization through the VISTA program of the United States Government Office of Economic Opportunity.

On January 6, 1969, petitioner applied for admission to the March, 1969 Ohio Bar Examination, by duly filing the necessary application forms and other required certificates, affidavits and fees with the Ohio Supreme Court.

Petitioner also submitted at this time two personal background questionnaires[1] constituting the initial stage of an investigation into his "character, reputation and moral qualifications" for admission to the Ohio Bar. He fully answered all of the interrogatories except the following:

> "12(g): State whether you have been, or presently are... a member of any organization which advocates the overthrow of the government of the United States by force.... If your answer to any section of the above question is 'yes' set forth the facts in detail...." (Questionnaire for Registration).
>
> "13. List the names and addresses of all clubs, societies or organizations of which you are or have been a member" (Questionnaire for Registration).

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1. These questionnaires are titled: "Questionnaire for Registration" and "Questionnaire for Admission."

> "7. List the names and addresses of all clubs, societies or organizations of which you are or have been a member since registering as a law student" (Questionnaire for Admission).

Petitioner responded to each of these questions:

> "I will not answer this question under my right as guaranteed by the Fifth Amendment of the United States Constitution."

Petitioner was subsequently interviewed by two members of the Committee who asked why he had refused to answer the questions[2]. Petitioner stated that his refusal was based upon his Fifth Amendment privilege and on the grounds that "the questions were not pertinent to his moral and character fitness as an applicant." *Infra* at p. 30. The interviewers informed petitioner that the consequences of such a refusal might be denial of his application for failure to cooperate with the Committee and the Ohio Supreme Court in the investigation of his character[3]. *Infra* at pp. 30, 34-35.

The interviewers also pursued related avenues of inquiry. In response to their questions, petitioner stated:

> "that he is not now and has never been a member of the Communist Party, or any socialist party, or of the Students for a Democratic Society and. . .that he has signed the standard U.S. Army pre-induction security oath, which has reference to the 'Attorney General's List.'" *Infra* at p. 34.

The Committee and the court below had access to an even greater breadth of information about the petitioner. For, as

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2. Memoranda of this interview prepared by these Committee Members and submitted to the full Committee are appended hereto, *infra* at pp. 30-35.

3. Under Rule XVII, Sec. 3(C), *infra* at p. 17, the Committee was authorized to use the questionnaires as a guide in conducting the character investigation.

part of his application, petitioner was required to and did authorize anyone with information about him to disclose it to the Committee. He had also signed a general release from liability arising out of the furnishing or inspection of this information. In addition, petitioner had been required to authorize the opening of his Selective Service files to the court below. *Infra* at pp. 28-29.

The interviewers found petitioner to be "honest and forthright" and "a very learned person and a very pleasant person." *Infra* at pp. 31, 33. One of the interviewers reported to the Committee that petitioner's

> "statements evidenced also a certain commitment to principle for its own sake, an unusually great amount of social awareness, and a degree of self-interest not reprehensible. On the basis of the interview and the background actually revealed in Mr. Stolar's application I have no reluctance to recommend Mr. Stolar for admission to the practice of law." *Infra* at p. 33.

Both interviewers refused to recommend petitioner's admission to the full Committee, "based on the fact that a complete investigation cannot be made at this time." *Infra* at p. 32.[4]

After the full Committee had met to consider this recommendation, the Chairman of the Admissions Committee notified petitioner by letter dated February 7, 1969 (*infra* at p. 27) that the "Committee had voted to deny your application unless by February 21, 1969 you answer" questions 7, 12(g) and 13.

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4. One of the interviewers stated in his memorandum:
"I cannot recommend him for admission due to the fact he places himself above the rules of the Court and feels that he cannot abide by them when they run afoul of his personal convictions. I also cannot recommend him for admission since I was unable to fully complete the necessary investigation into his moral and character fitness due to his refusal to allow a complete investigation to be made." *Infra* at p. 31.

Petitioner replied in a letter dated February 10, 1969 (*infra* at p. 49), that, "[i]t is my belief that such questions are not within the proper scope of review for a Bar Association Committee on Admissions and in any event, the answers to such questions are protected by the First and Fifth Amendments of the United States Constitution."

Based on this statement, the Chairman of the Admissions Committee reported to the Ohio Supreme Court on February 20, 1969 that "[i]n view of Mr. Stolar's refusal to answer the questions above referred to [questions 7, 12(g) and 13], the Admissions Committee of the Columbus Bar Association recommends that Mr. Stolar's application for admission to the Ohio Bar Examination be denied." *Infra* at p. 26.

Counsel for petitioner first entered the matter while the Ohio Supreme Court was considering the Committee's recommendation by informing the court below, *infra* at pp. 40-45, of a recent decision rendered on February 17, 1969, by a three-judge federal district court sitting in the Southern District of New York which appeared to be in conflict with the Admissions Committee's recommendation. *Law Students Civil Rights Research Council, Inc.* v. *Wadmond*, 68 Civ. 2917, consolidated with *Wexler* v. *The Supreme Court of the State of New York*, 68 Civ. 2938, ___F. Supp.___ (S.D.N.Y. 1969 (hereinafter "*Law Students* case").[5] In that case, the court, per Circuit Judge Friendly, held that questions to applicants for the New York Bar, similar to the questions petitioner refused to answer, were impermissible under the First Amendment. Petitioner's counsel also supported petitioner's First and Fifth Amendment grounds by citing this Court's decision in *Spevack* v. *Klein*,

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5. Ten copies of the opinions in the *Law Students* case have been simultaneously filed with this petition for the convenience of the Court.

385 U.S. 511; District Judge Motley's concurring-dissenting opinion in the *Law Students* case, and *Haskett* v. *Washington*, Civ. No. 20007-68, ___ F. Supp. ___ (three-judge Court, D.D.C., Dec. 4, 1968), 37 U.S.L. Week 2317.[6]

On February 27, 1969, the court below decided that "the recommendation of the Committee on Admissions should be approved." *Infra* at p. 23.

**Reasons Relied on for the Allowance of the Writ**

1. This case presents squarely the issue of the right of the states, under the First, Fifth and Fourteenth Amendments, to predicate admission to the bar upon the compelled disclosure of the applicant's political and personal associations, beliefs and speech. This became a widespread practice of the various states during the so-called Cold War period where the state courts and the admission committees adopted many of the worst features of the loyalty-security program then in vogue.[7]

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6. Copies of the opinions in the *Law Students* and *Haskett* cases were submitted to the court below for its convenience.

7. See *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *Konigsberg* v. *State Bar*, 353 U.S. 252; *Konigsberg* v. *State Bar*, 366 U.S. 36; *In re Anastaplo*, 366 U.S. 82; *Application of Patterson*, 302 P. 2d 227 (Ore. 1956); and generally *Application of Levy*, 214 F. 2d 331 (5th Cir. 1954), *rev'd* 348 U.S. 978; Brown & Fassett, *Loyalty Tests for Admission to the Bar*, 20 U. Chi. L. Rev. 480 (1953); Countryman & Finman, *The Lawyer in Modern Society*, 758, 822-884 (1966); Ginger & Koenigsberg, *Report on Rules for Admission to the Bar: Tests of Applicants' "Loyalty" and "Good Moral Character"*, 18 Law. Guild Rev. 58 (1958); 1 Emerson, Haber and Dorsen, *Political and Civil Rights in the United States*, 262-283 (1967); Note, *Inquiries Into the Political Beliefs and Activities of Applicants for Admission to the Bar*, 1 Columbia Survey of Human Rights 33 (1967-1968); *New York State Bar Assoc. Rept. of the Special Committee on the Future Admission to Membership in the New York Bar of Persons of Doubtful Loyalty and the Continuation in Good Standing of Present Members Whose Loyalty is in Doubt* (Jan. 24, 1954), 68 Assoc. of the Bar of the City of New York, Pam. No. 17; *The Proposed Anti-Communist Oath: Opposition Expressed*, 37 ABA J 123 (1951).

These practices, which in recent years have been judicially curtailed in almost every other area of government licensing and employment[8] are vestigial remains in the area of bar admission. Yet, the Bar, as the Court has found with respect to the teaching profession[9] is plainly a most delicate area in which to experiment with First Amendment freedoms. Such investigations inhibit attorneys from associating with and representing politically unpopular groups, as the Court has explicitly recognized. *NAACP* v. *Button*, 371 U.S. 415, 443; *Johnson* v. *Avery*, ____ U.S. ____, 37 U.S.L. Week 4128 (Feb. 24, 1969).[10]

2. These state restrictions directly threaten the independence of the federal as well as the state bar; first, because proceedings in state courts are often the prelude to review by this Court, and, second, because admission to the Bar of of this Court, like all federal courts, is derivative from state admission. *In re Ruffalo*, 390 U.S. 544, 547; *Sperry* v. *Florida Bar*, 373 U.S. 379; *Spanos* v. *Skouras Theatres Corp.*, 364 F. 2d 168 (2d Cir. 1966); cf., *Ex Parte Garland*, 4 Wall. (77 U.S.) 333.

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8. See e.g., *Schneider* v. *Smith*, 390 U.S. 17; *United States* v. *Robel*, 389 U.S. 258; *Sherbert* v. *Verner*, 374 U.S. 398; *Kent* v. *Dulles*, 357 U.S. 116; Van Alstyne, *The Demise of the Right-Privilege Distinction in Constitutional Law*, 81 Harv. L. Rev. 1439 (1968).

9. This Court has been especially vigilant in protecting the political privacy of teachers because of the impact of political inquiry on academic freedom, an interest comparable to that of the independence of the bar involved in this case. See *Sweezy* v. *New Hampshire*, 354 U.S. 234, 250; *Wieman* v. *Updegraff*, 344 U.S. 183, 195; *Baggett* v. *Bullitt*, 377 U.S. 360; *Keyishian* v. *Board of Regents*, 385 U.S. 589, 601-603.

10. See also *Hacken* v. *Arizona*, 389 U.S. 143, 146, *appeal dismissed* (Mr. Justice Douglas dissenting); *Konigsberg* v. *State Bar*, 366 U.S. 36, 73-74, and *In re Anastoplo*, 366 U.S. 82, 115-116 (Mr. Justice Black with whom the Chief Justice and Mr. Justice Douglas concur, dissenting); *Sanders* v. *Russell*, 401 F. 2d 241 (5th Cir. 1968); *Lefton* v. *City of Hattiesburg*, 333 F. 2d 280 (5th Cir. 1964); *Sobell* v. *Perez*, 289 F. Supp. 392 (D. La. 1968); Chafee, *Blessings of Liberty*, 157-176 (1956).

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e broadest consequence of these practices is the de-
right to counsel, to unrestricted access to the federal
, in a particular sense, to freedom of speech and
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ms of right mainly in federal forums, not solely as
n of legal right, but also as a mode of expressing
and political beliefs. See *NAACP* v. *Button*, 371
*Mine Workers* v. *Illinois State Bar Assn.*, 389 U.S.
*oad Trainmen* v. *Virginia Bar*, 377 U.S. 1; *Hacken* v.
89 U.S. 143, *app. dismiss.* (Mr. Justice Douglas, dis-
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utterance *in terrorem*" effect (see *Keyishian* v. *Board of Regents*,
far wider 04) since "[w]hen one must guess what conduct or
513, 526 will lose him his position, he necessarily will steer
v. *Smith* of the unlawful zone," *Speiser* v. *Randall*, 357 U.S.
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are more ) The inquiries as to every organizational connection
unconsti e applicant's lifetime (questions 7, 13, *supra* at pp. 3-4)
v. *Smith* indiscriminate in their sweep than the inquiries held
utional in *Shelton* v. *Tucker*, *supra*. See also *Schneider*
*supra*.

The withdrawal of precisely such unlimited questions by the New York courts after Judge Motley had ordered the convening of a three-judge court, *Law Students Civil Rights Research Council* v. *Wadmond*, 291 F. Supp. 772, demonstrated in Judge Friendly's view "that the Committee on Character and Fitness and the Justices of the Appellate Divisions are well aware of the need to bring them [the questionnaires] in line with developing concepts of First Amendment rights," *Law Students*, opinion, p. 19. In contrast, the court below, although informed of the decision in the *Law Students* case, that such questions "raise exceedingly serious problems under *Shelton* v. *Tucker*, 364 U.S. 459 (1960)", *id.* at 20, declined to withdraw the questions.

(b) In addition to the overbreadth condemned in *Shelton* and in *Schneider* v. *Smith*, *supra* at 529 (Mr. Justice Fortas concurring), the inquiry as to membership in organizations advocating the overthrow of the government by force (question 12(g), *supra* at p. 3) suffers from other constitutional defects. The most obvious defects are those pointed out by Judge Friendly with respect to a similar New York question[11] – (i) that the organizational teaching may not coincide with the applicant's period of membership, and (ii) that there is no limitation "to cases where the applicant knew of the teaching or advocacy"; hence, the statutory court's conclusion that the state's interest "can be adequately protected by a question

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11. "26. Have you ever organized or helped to organize or become a member of or participated in any way whatsoever in the activities of any organization or group of persons which teaches (or taught) or advocates (or advocated) that the Government of the United States or any State or any political subdivision thereof should be overthrown or overturned by force, violence or any unlawful means? ____ If your answer is in the affirmative, state the facts below."

See *Law Students*, opinion, p. 20.

more narrowly phrased," *Law Students*, opinion, p. 24. The court below, although specifically advised of this criticism, *infra* at p. 44, took no step to revise its questions.

The vice of such a question, even if "more narrowly phrased" is much deeper. It creates a presumption of guilt through association in one who, knowing both the legal and the illegal purposes of an organization, shares only the former. See *Baggett* v. *Bullitt*, 377 U.S. 360; *Keyishian* v. *Board of Regents*, *supra* at 608-609. Thus it impermissibly shifts to the applicant the burden of proving his legal membership and, more broadly, his loyalty. *Speiser* v. *Randall*, *supra*.

There is, indeed, serious danger that the presumption of illegal membership would be irrebuttable. See *Keyishian* v. *Board of Regents*, *supra* at 608. Ohio does not offer substantive standards as to what constitutes either illegal membership or illegal organizations so as to limit the investigation and the consequent disqualification. See *Sweezy* v. *New Hampshire*, *supra*; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, 242-43. Nor are there even procedural standards to govern the competency or evidence or the question of proof of illegal association. Cf. *Noto* v. *United States*, 367 U.S. 290, 291; *Yates* v. *United States*, 354 U.S. 298; *Woodby* v. *INS*, 385 U.S. 276; *Willner* v. *Committee on Character and Fitness*, 373 U.S. 96; *Speiser* v. *Randall*, *supra* at 525-526.[12]

(c) Ohio's inquiry must be constitutionally assessed in the light of its total impact upon applicants for admission to

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12. A further defect in question 12(g) arises from the term "advocating" which is too vague to be a proper guide to an applicant giving a sworn statement, upon the accuracy of which both his professional career and his susceptibility to prosecution depends. See *Baggett* v. *Bullitt*, *supra*; *Keyishian* v. *Board of Regents*; *Whitehill* v. *Elkins*, 389 U.S. 54; cf. *United States* v. *Brown*, 381 U.S. 437, 455-456. The applicant must choose between over-disclosure or the unachievable: making certain, beforehand, that none of his associations fall under the question's coverage. See *Speiser* v. *Randall*, *supra* at 526.

the bar. The questionnaires here only serve to initiate a broader and more sweeping character investigation. "Controversial" associations disclosed on the questionnaire may be the triggering device for extended interrogation into an applicant's political and personal privacy. The investigatory license here is akin to a general warrant sanctioning an indiscriminate search based on the investigator's political biases and predilections.

(i) Petitioner's capitulation to certain demands does not minimize their role in this context. He obviously felt compelled to answer the Committee's inquiry that he had never been a member of "any socialist party, or of the Students for a Democratic Society" and that he has signed the standard U.S. Army pre-induction security oath which has reference to the "Attorney-General's List." Cf. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123. But his "satisfactory" responses here should not blind us to the length to which Ohio has gone in construing its mandate to inquire and determine.

(ii) Likewise, it is significant that petitioner was compelled to authorize every person to give information "regarding complaints or charges. . . *or any other pertinent data*." (Emphasis added.) *Infra* at p. 28. This is the converse of the New York question requiring disclosure of "any incident which has. . . bearing on your character and fitness," of which Judge Friendly said, "[t]his catch-all has a serious *in terrorem* effect," *Law Students*, opinion, p. 25, adding, [w]e find no interest of the state sufficiently compelling to require an applicant to engage in the soul-searching of his entire past life," *ibid.*

(iii) Finally, the petitioner was required to authorize the court below to obtain his Selective Service file, *infra* at p. As the court in the *Law Students* case (p. iii, ftn. 9) stated, there is "considerable doubt as to the propriety of" such an unrestricted authorization.

"4. Every applicant for admission to the Ohio Bar Examination is required as a matter of course to answer the interrogatories. No preliminary showing of cause is required by Ohio generally or was made in the present case. In this respect the present case contrasts sharply with the second *Konigsberg* case where the Court noted that the state's inquiry was based upon independent information which it had received concerning the California applicant, *Konigsberg* v. *State Bar*, 366 U.S. 36, 45.[13] Indeed, the Committee's comments upon petitioner were most flattering.

The absence of probable cause to compel even limited disclosures of political associations violates the First Amendment. See *Gibson* v. *Florida Legislative Investigation Committee*, 371 U.S. 539, 557, requiring "an adequate foundation for inquiry." This foundation must be established upon independent (*Sweezy* v. *New Hampshire*, *supra* at 251, 266), relevant (*DeGregory* v. *New Hampshire Attorney General*, 383 U.S. 825, 830), and substantial evidence (*Speiser* v. *Randall*, *supra* at 529). Cf. *Uphaus* v. *Wyman*, 360 U.S. 72, 79.

The court below exercised both an investogatory and adjudicatory power in determining the petitioner's qualifications for admission. See *Willner* v. *Committee on Character and Fitness*, 373 U.S. 96. Hence, the absence of "an adequate foundation for inquiry" into petitioner's First Amendment protected associations violates his due process rights to confrontation and notice of charges, *ibid*. In due process terms, there

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13. This case also differs from *Konigsberg* v. *State Bar*, *supra*, and *In re Anastaplo*, 366 U.S. 82, in the breadth of the present interrogatories as opposed to the narrow question involved in those cases, of Communist Party affiliation which, for certain reasons, carried a presumed opprobrium. Nevertheless, if a writ is granted here, we would argue for the reconsideration of the *Konigsberg* and *Anastaplo* decisions in the light of the dissenting opinions in those cases and subsequent decisions of this Court.

is no logical distinction between disbarment and denial of admission; both proceedings affect substantial interests of the individual. *In re Ruffalo*, 390 U.S. 544; *Greene* v. *McElroy*, 360 U.S. 474, and *Schneider* v. *Smith*, *supra* at 25.

The baseless intrusion into petitioner's privacy authorized by the court below would be a novel doctrine even if this case involved the highest of state interests—health, safety and welfare. See *Camara* v. *Municipal Court*, 387 U.S. 523; *See* v. *Seattle*, 387 U.S. 541. In the First Amendment area such an intrusion is condemned as a prior restraint. See *Marcus* v. *Search Warrants of Property*, 367 U.S. 717; *A Quantity of Copies of Books* v. *Kansas*, 378 U.S. 205; *Freedman* v. *Maryland*, 380 U.S. 51; *Haskett* v. *Washington*, *supra*.

5. While the court below did not address itself specifically to the point, its decision clearly penalized petitioner's assertion of his privilege against self-incrimination. *Spevack* v. *Klein*, *supra*. This Court has held such state action to violate the due process clause where inferences of guilt were drawn, *Slochower* v. *Board of Higher Education*, 350 U.S. 551, 557, and to violate the constitutional privilege, where dismissal occurred without such inference. *Sanitation Men* v. *Sanitation Commissioner*, 392 U.S. 280; see also *Garrity* v. *New Jersey*, 385 U.S. 493. Several members of the Court have indicated the constitutional privilege may offer greater protection to lawyers than to state employees, *Spevack* v. *Klein*, *supra; a fortiori*, with prospective licensees such as petitioner. In any event, the present sweeping inquiry without probable cause was not the narrow accounting of stewardship which remains for determination of the Court, see *Sanitation Men* v. *Sanitation Commissioner*, *supra*.

## CONCLUSION

**The petition for a writ of certiorari should be granted.**

Respectfully submitted,

Leonard B. Boudin
Rabinowitz, Boudin & Standard
30 East 42nd Street
New York, New York 10017

William Boyland
78 East State Street
Columbus, Ohio

*Attorneys for the Petitioner*

David Rosenberg,
*of Counsel.*

March 25, 1969

## APPENDIX


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## SUPREME COURT OF OHIO

### RULE XVII.

### ADMISSION TO THE PRACTICE OF LAW.

**Section 1. General Requirement.**

Except as provided in Section 8 of this rule, to be admitted to the practice of law in Ohio, a person must

(A) be a citizen of the United States;

(B) be 21 years of age;

(C) have earned, prior to admission to law school, a bachelor's degree approved by the Court or earned in a college or university approved by one of the following accrediting associations: Middle States Association of Colleges and Secondary Schools, New England Association of Colleges and Secondary Schools, North Central Association of Colleges and Secondary Schools, Northwest Association of Secondary and Higher Schools, Southern Association of Colleges and Secondary Schools, and the Western College Association;

(D) have a degree from a law school which is approved by the American Bar Association and if located in Ohio, is also a member of the League of Ohio Law Schools;

(E) be approved as to character under procedures provided in this rule;

(F) have passed an examination conducted by the Ohio Board of Bar Examiners; and

(G) have taken the oath of office.

**Section 2. Preliminary Registration Requirements.**

(A) Every person who intends to take the Ohio bar examination shall file with the Clerk of this Court, within 120 days after entering law school, an application for reg-

istration as a candidate for admission to the practice of law on a form prescribed and furnished by the Court. The application shall be accompanied by

(a) a certificate of the dean of the law school showing that the applicant has begun the study of law;

(b) a properly authenticated transcript of college credits showing that prior to admission to law school the applicant has earned a bachelor's degree;

(c) a character questionnaire in duplicate prescribed and furnished by the Court;

(d) a fingerprint identification on the form used by the Federal Bureau of Investigation; and

(e) a registration fee of twenty dollars. (Effective Sept. 1, 1963.)

**Section 3. Character Investigation.**

(A) The president of each local bar association shall appoint a Committee on Applicants for Admission to the Practice of Law consisting of three or more members each of whom shall serve without compensation for a term of three years. One-third of the committee members' terms shall expire each year. These committees shall be responsible for investigating the character, reputation and moral qualifications of applicants and shall report their findings and recommendations to the Clerk of this Court.

(B) If the applicant is a resident of Ohio, one copy of the questionnaire required by Section 2 shall be forwarded by the Clerk to the Committee on Applicants for Admission to the Practice of Law in the county where the applicant claims permanent residence.

(C) In conducting the investigation, the local committee shall utilize the applicant's character questionnaire and shall also obtain answers to questionnaires from three citizens in the county, none of whom is related to the ap-

plicant. Two members of the committee shall personally interview the applicant and record the results on a form prescribed by the Court.

(D) This Court shall determine from the report of the local bar association committee and from other available information whether the applicant shall be accepted for registration. The Clerk shall notify each applicant concerning the acceptance or rejection of the application.

(E) If the applicant is a nonresident, the Clerk shall take such steps as are feasible to provide for character investigations as nearly as possible in conformity to the above procedures.

**Section 4. Application for Examination.**

(A) Applications to take the examination shall be filed with the Clerk of this Court at least 90 days before the time fixed for the examination. Each application shall be accompanied by

(a) the applicant's affidavit that he has read and studied the Canons of Professional Ethics adopted by the American Bar Association and approved by this Court;

(b) a certificate from the law school that the applicant has or will have received a law degree, is a person of good moral character, has sufficient knowledge and ability to discharge the duties of an attorney at law and has received instruction in legal ethics;

(c) a questionnaire in triplicate furnished by the Court updating the information on character and moral fitness furnished at the time of registration; and

(d) a fee of forty dollars refundable only in the event of disapproval. (Effective September 1, 1963.)

(B) This Court shall pass on the application and the Clerk shall notify the applicant of the Court's approval or disapproval.

**Section 5. Bar Examination.**

(A) The bar examination shall be prepared and conducted under the direction of the Board of Bar Examiners appointed by the Court and consisting of ten members of the bar of Ohio. The members of the board shall serve terms of five years and shall be so appointed that the terms of two examiners will expire each year.

(B) Two examinations shall be held each year in Columbus. One shall begin on the first Tuesday in March and the other on the last Tuesday in July. Each examination shall continue for three days and shall be divided into six half-day sessions. Each examiner shall prepare and submit five questions, of which the applicants shall answer four. The subject matter of the questions shall not be designated or labeled.

(C) The examination shall consist of the following:

| Subjects | Number of Questions |
|---|---|
| Business Associations (including Agency, Partnership and Corporations) | 8 |
| Constitutional Law | 5 |
| Contracts | 5 |
| Criminal Law | 2 |
| Equity, Trusts and Wills | 8 |
| Evidence | 5 |
| Negotiable Instruments | 2 |
| Property (Real and Personal) | 5 |
| Pleading and Practice | 5 |
| Torts | 5 |

(D) No applicant shall be admitted to the practice of law unless a grade of 75 per cent is received on the examination. The grades as determined by the Board of Bar Examiners shall be final.

(E) The Board of Bar Examiners may, subject to the approval of the Court, promulgate additional rules to aid in the conduct of the examinations.

**Section 6. Re-Examination.**

(A) Applicants for re-examination may apply for admission to the March examination only. No applicant will be admitted to more than three examinations.

(B) Applications must be filed with the Clerk of this Court at least 90 days before the time fixed for examination.

(C) Before being admitted to the examination, the applicant must again be approved by the local Committee on Admissions to the Practice of Law.

(D) Each application for re-examination, submitted on a form prescribed by the Court, must be accompanied by a fee of sixty dollars refundable only in the event the application is disapproved. The fee for a second re-examination is seventy dollars.

**Section 7. Induction to the Bar.**

(A) Each successful applicant and each person admitted under Section 8 must sign a roll designating his residence and take the following oath of office:

I Do Solemnly Swear:

I will support the Constitution of the United States and the Constitution of the State of Ohio;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client and I will accept no compensation

in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed or delay any man's cause for lucre or malice, So Help Me God.

(Clerk's note: This form of oath was adopted January 25, 1910. It is the form recommended by the American Bar Association.)

(B) A fee of ten dollars shall be charged for each certificate of admission. A charge of one dollar shall be made for a duplicate certificate of admission.

**Section 8. Admission Without Examination.**

(A) An applicant for admission to the practice of law in Ohio without examination must file the following with the Clerk of this Court:

(a) a certificate of admission as an attorney at law in the highest court of another state or in the District of Columbia;

(b) a certificate, signed by a judge of a court of record of the state from which he seeks admission, indicating that the applicant is of good moral character and is in good standing in the bar of that state;

(c) certificates evidencing education equal to the requirements prescribed by this Court for admission to the practice of law in Ohio in effect at the time the applicant was admitted in such other state;

(d) evidence showing that applicant has, for at least five years, engaged in legal work of such character and description as shall satisfy this Court that the applicant possesses the legal skills deemed

adequate for admission to the practice of law in Ohio without examination;

(e) a certificate by an attorney at law of this state that the applicant is of good moral character and recommending him for admission to the practice of law in Ohio;

(f) applicant's affidavit that he is a citizen of the United States and that he is a resident of this state or intends to come into the state for the purpose of making it his permanent residence (if the applicant is not a resident of Ohio, his certificate shall not be issued until he has established residence in this state);

(g) an application and questionnaire, in duplicate, for use by the National Conference of Bar Examiners in making a character investigation;

(h) a fingerprint identification card on the form used by the Federal Bureau of Investigation;

(i) a nonrefundable fee of one hundred and fifty dollars.

(B) This Court shall pass on the application, and the Clerk shall notify the applicant of the Court's approval or disapproval.

**Order and Memorandum Opinion of the Supreme Court of Ohio**

THE STATE OF OHIO, )
)
City of Columbus. )

1969 TERM

To wit: Thursday, February 27, 1969

In the Matter of the Application )
of Martin Robert Stolar to be )
admitted to the March, 1969, )
Ohio Bar Examination. )

ENTRY

The Court coming now to consider the application of Martin Robert Stolar, the recommendation of the Committee on Admissions of the Columbus Bar Association and the memorandum and material submitted by counsel for Mr. Stolar, finds that oral argument in this matter is not necessary, and that the recommendation of the Committee on Admissions should be approved.

It is, therefore, ordered that the application of Martin Robert Stolar to be admitted to the March, 1969, Ohio Bar Examination be denied.

I, THOMAS L. STARTSMAN, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No. 49 Page.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 27th day of February, 1969.

THOMAS L. STARTZMAN, Clerk

By_____Deputy.

**Recommendation of the Committee on Admissions of the Columbus Bar Association**

February 18, 1969

Thomas Startzman, Esq.
Clerk of Supreme Court
State House Annex
Columbus, Ohio

Re: Martin Robert Stolar

Dear Mr. Startzman:

The Admissions Committee of the Columbus Bar Association has considered the application of Martin Robert Stolar, 999 Caldwell Place, Apt. 1409, Columbus, Ohio, for admission to the Ohio bar examination. As indicated thereon Mr. Stolar has refused to answer questions 12(g) and 13 of applicant's questionnaire for registration as a law student and question 7 of applicant's questionnaire for admission to the bar examination.

The Admissions Committee voted to recommend to the Supreme Court that Mr. Stolar's application be denied unless Mr. Stolar answered the indicated questions. This information was transmitted to Mr. Stolar by certified mail and Mr. Stolar has indicated to the undersigned both by telephone and by letter that he will not answer the indicated questions. A copy of his letter is attached hereto. He further indicates that he did not wish the committee to wait until February 21, 1969, to forward this matter to you.

*Recommendation of the Committee on Admissions of the Columbus Bar Association*

Thomas Startzman, Esq.
February 18, 1969

In view of Mr. Stolar's refusal to answer the questions above referred to, the Admissions Committee of the Columbus Bar Association recommends that Mr. Stolar's application for admission to the Ohio Bar examination be denied.

Very truly yours,

William H. Schneider
Chairman
Admissions to the Bar
Committee

WHS:lml
Enclosure

**Committee Letter to Petitioner**

February 7, 1969

Mr. Martin Robert Stolar
999 Caldwell Place
Apartment 1409
Columbus, Ohio

Dear Mr. Stolar:

The Admissions Committee of the Columbus Bar Association has considered your application for admission to the Ohio Bar examination. The committee has voted to deny your application unless by February 21, 1969, you answer questions 12(g) and 13 of applicant's questionnaire for registration as a law student and question 7 of applicant's questionnaire for admission to bar examination.

Upon receipt of the answers to these questions the investigating committee will further consider your application.

Very truly yours,

William H. Schneider
Chairman
Admissions to the
Bar Committee

WHS:lml

CERTIFIED MAIL
RETURN RECEIPT REQUESTED 27

## Authorization and Release

I, Martin Robert Stoler, born at Syracuse, New York, on April 2, 1943, having filed an application for admission to the bar of Ohio, consent to have an investigation made as to my moral character, professional reputation and fitness for the practice of law and such information as may be received reported to the admitting authority. I agree to give any further information which may be required in reference to my past record.

I also authorize and request, every person, firm, company, corporation, governmental agency, court, assocation or institution having control of any documents, records and other information pertaining to me,to furnish to the Supreme Court of Ohio any such information, including documents, records, bar association files regarding charges or complaints filed against me, formal or informal, pending or closed, or any other pertinent data, and to permit the Supreme Court of Ohio or any of its agents or representatives to inspect and make copies of such documents, records, and other information.

I specifically authorize the Supreme Court of Ohio to obtain any information from my official record on file with Local Board Number 75 of the Selective Service System, located in the City of Rochester, State of New York; and hereby consent to and authorize the release of such information by the Selective Service System.

*Authorization and Release*

I hereby request and authorize the Department of the_____
(Army, Navy, Air Force)
to furnish to the Supreme Court of Ohio, the record of each period of my service therein, and to furnish the character of service rendered for each period. My serial number was not applicable.

I hereby release, discharge, exonerate the Supreme Court of Ohio, its agents and representatives, the admission agency of the above jurisdiction, its agents and representatives, and any person so furnishing information from any and all liability of every nature and kind arising out of the furnishing or inspection of lsuch documents, records, and other information or the investigation made by the Supreme Court of Ohio.

I have read the foregoing document and have answered all questions fully and frankly. The answers are complete and true of my own knowledge.

State of Ohio
County of Franklin ss.

s/ Martin Robert Stoler
Signature of Applicant

Subscribed and sworn to before me this 23 day of Dec. A.D., 1968

s/ Charles A. Williams
CHARLES A. WILLIAMS
Notary Public, Franklin County, Ohio
My Commission Expires 6/25/72

## Memoranda of Petitioner's Interview

In the Matter of the Application for
Registration of Martin Robert Stolar
As a Candidate for Admission to the
Practice of Law

January 23, 1969

On January 23, 1969, the undersigned interviewed the applicant pursuant to the Rules of the Supreme Court of Ohio for applications for the practice of law. Richard Snodgrass, Attorney at Law, a member of the Admissions Committee, was also present for the interview.

It was noted that Mr. Stolar had refused to answer questions 12g and 13 on the Applicant's Questionaire and question 7 on the Applicant's Questionnaire for Bar Examination for the following stated reasons, "I will not answer this question under my right as guaranteed by the Fifth Amendment of the United States Constitution."

Mr. Snodgrass and myself advised Mr.Stolar of the consequences of his refusal to answer these questions. After receiving this advice and stating he understood the matter, Mr.Stolar still refused to answer the above listed questions. His reason for refusing to answer was based on the premise that the questions were not pertinent to his moral and character fitness as an applicant. His principles and personal convictions would not allow him to answer these questions.

January 23, 1969

Based on my investigation, I find Mr. Stolar to be a very learned person and a very pleasant person, but I cannot recommend him for admission due to the fact he places himself above the rules of the Court and feels that he cannot abide by them when they run afoul of his personal convictions. I also cannot recommend him for admission since I was unable to fully complete the necessary investigation into his moral and character fitness due to his refusal to allow a complete investigation to be made.

J. Richard Lumpe
37 West Broad Street
Columbus, Ohio
221-6755

BEFORE THE SUPREME COURT OF OHIO

In the Matter of the Application for
Registration of Martin Robert Stolar

REPORT OF COMMITTEE ON APPLICANTS FOR
ADMISSION TO THE PRACTICE OF LAW

* * * *

6. What is your recommendation relative to the applicant's registration as a candidate for admission to the practice of law? I recommend that he not be registered at this time based on the fact that a complete investigation cannot be made at this time. See reasons set forth in the attached statement.

Date January 23, 1969
Address 37 West Broad St., Columbus

s/ J. Richard Lumpe
J. Richard Lumpe

*Memoranda of Petitioner's Interview*

In the Matter of the Application for
Registration of Martin Robert Stolar
As a Candidate for Admission to the
Practice of Law

January 27, 1969

J. Richard Lumpe and I interviewed Mr. Stolar on Thursday, January 23, 1969.

I found Mr. Stolar to be honest and forthright. His statements evidenced also a certain commitment to principle for its own sake, an unusually great amount of social awareness, and a degree of self-interest not reprehensible. On the basis of the interview and the background actually revealed in Mr. Stolar's applications I have no reluctance to recommend Mr. Stolar for admission to the practice of law.

My recommendation is qualified, however, in that I can recommend him only if the Committee as a whole is willing to recommend his admission despite his refusal, with full notice of the possible consequences, to answer questions on the applications touching on his present and former organizational membership.

Two questions on each application Mr. Stolar, relying on the Fifth Amendment, refused to answer, on the ground that such

January 27, 1969

questions go to matters not properly within the subject matter of such an inquiry. He rejected the argument that the Court, an agency of the state and of which he is to be a servant, has a right to inquire into such matters and to receive his full co-operation in doing so. He did state in response to direct questions that he is not now and has never been a member of the Communist Party, of any socialist party, or of the Students for a Democratic Society, and stated that he has signed the standard U.S. Army pre-induction security oath, which has reference to the "Attorney General's List".

Mr. Stolar was fully advised of the possible consequences of refusing to answer within the context of the Schwere and Konigsberg cases and the possible position of the Committee and of the Ohio Supreme Court that admission would and could lawfully be denied because of his refusal to

January 27, 1969

answer and cooperate in the investigation. The issue then would seem to be whether the Committee and the Court are willing to honor Mr. Stolar's claimed rights above their own.

Richard Snodgrass
37 West Broad Street
Columbus, Ohio
228-1511

**Counsel's Memorandum on Behalf of Petitioner**

February 24, 1969

Clerk
Supreme Court of Ohio
Columbus, Ohio

Re: Application of
MARTIN ROBERT STOLAR
to Take the Ohio Bar
Examination

Dear Sir:

The undersigned attorneys, Leonard B. Boudin of New York City, New York, and a member of the New York Bar, and William Boyland of Columbus, Ohio, and a member of the Ohio Bar, hereby request permission of this Court to appear on behalf of Martin Robert Stolar or as amicus curiae to present certain information set out below, which is relevant to the consideration of this matter. Would you kindly submit copies of this

letter and the other material enclosed herewith to the members of this Court?

Mr. Stolar has informed us that on February 7, 1969, he was notified by Mr. William H. Schneider, Chairman of the Admissions Committee of the Columbus Bar Association, that the Committee had decided to deny Mr. Stolar's application for permission to take the Ohio Bar Examination scheduled for March 4, 5 and 6, 1969 "unless by February 21, 1969, you [Mr. Stolar] answer questions 12(g) and 13 of the applicant's questionnaire for registration as a law student and question 7 of applicant's questionnaire for admission to bar examination".

Question 12(g) of the applicant's questionnaire for registration provides:

> "State whether you have been, or presently are . . . (g) a member of any organization which advocates the overthrow of the government of the United States by force.
>
> If your answer to any section of the above question is 'Yes,' set forth the facts in detail, designating by letter the portion of the question to which you refer. Include names of cases and dates of all court proceedings, the dispositions made thereof, and the name and address of the court in which the record may be found." [This latter portion of question 12 applies generally to subsections 12(a) - 12(g).]

Mr. Stolar answered question 12(g) by stating:

> "I will not answer this under my right as guaranteed by the Fifth Amendment of the U. S. Constitution."

Questions 13 of the applicant's questionnaire for registration and 7 of the applicant's questionnaire for admission to bar examination are similar and in Mr. Stolar's case overlapping.

They provide respectively:

> "13. List the names and addresses of all clubs, societies or organizations of which you are or have been a member."
>
> "7. List the names and addresses of all clubs, societies or organizations of which you are or have been a member since registering as a law student."

Mr. Stolar's replies to both questions 13 and 7 were precisely the same as his answer to questions 12(g):

> "I will not answer this question under my right as guaranteed by the Fifth Amendment of the United States Constitution."

In his letter of reply to the Committee, dated February 10, 1969 (annexed hereto as Exhibit A), Mr. Stolar stated:

> "Please be informed that I will not change my answers to questions 12(g), 13 and 7 of the two application forms. This will be my position on February 21, 1969 also.
>
> It is my belief that such questions are

> not within the proper scope of review for a Bar Association Committee on Admissions and in any event, the answers to such questions are protected by the First and Fifth Amendments of the United States Constitution."

Mr. Stolar has therefore grounded his refusal to answer the three questions involved on both the First and Fifth Amendments to the Constitution.

Recently a three-judge federal district court for the Southern District of New York, in an opinion by Circuit Judge Friendly dated February 17, 1969 (the full opinion of Judge Friendly and dissenting opinion of District Judge Motley, as yet not officially reported, are submitted herewith for the convenience of the Court) fully explored the import of the First Amendment to questions on an admission questionnaire for the New York Bar which

were almost identical to the questions Mr. Stolar refused to answer.

In the course of conducting its investigation of the character and fitness of applicants to the New York Bar, the Committees on Character and Fitness for the New York Appellate Divisions, First and Second Judicial Departments (covering New York City and surrounding suburban counties) included the following questions on their questionnaires:

> "26. Have you ever organized or helped to organize or become a member of or participated in any way whatsoever in the activities of any organization or group of persons which teaches (or taught) or advocates (or advocated) that the Government of the United States or any State or any political subdivision thereof should be overthrown or overturned by force, violence or any other unlawful means? If your answer is in the affirmative, state the facts below.

"28(a) Have you participated in activities of a public or patriotic nature or in philanthropic, religious, or social service? If so, state fully.

"(b) If you engaged in extracurricular activities (athletic, dramatic, debating, club, committee, administration, etc.) in college, indicate approximate amount of time spent and responsibility involved.

"29(a) Give names, addresses, objects and period of membership in each and every club, association, society or organization of which you are or have been a member other than those associated with and recognized by accredited schools and colleges."

Questions 28(a) and 29(a) were withdrawn by the Committees soon after the commencement of the three-judge court action.

Judge Friendly made the following observation regarding the withdrawal of these questions (see pp. 19-20 of Judge Friendly's opinion):

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> "The questionnaires in use in the two departments have been the subject of recent changes which demonstrate that the Committees on Character and Fitness and the Justices of the Appellate Divisions are well aware of the need to bring them in line with developing concepts of First Amendment rights . . . After the commencement of the actions the Appellate Divisions deleted questions[28(a), (b) and 29(a)] which would have raised exceedingly serious problems under Shelton v. Tucker, 364 U.S. 479 (1960). See also Schneider v. Smith, 390 U.S. 17 (1968)." (Emphasis supplied)

The court stayed issuance of an injunction against the resumption of questions 28(a), (b) and 29(a) out of "[c]onsiderations of comity to respected fellow-judges" so that they might be "afforded a reasonable opportunity to reflect on our conclusions and perhaps take action that might obviate any occasion for an injunction." (See Judge Friendly's opinion at p. 27).

As to Question 26, the court held that it was unconstitutionally overbroad. Judge Friendly ruled:

> "The most obvious problems with Question 26 are the parenthetical past-tense verbs . . . The question should be corrected to clarify that the organization's teaching or advocacy of violent overthrow must have coincided in time with applicant's membership . . .
>
> . . . . . .
>
> "no Supreme Court decision has gone beyond sustaining inquiry into membership in organizations known to the member to advocate forceful or violent overthrow, or in the Communist Party whose advocacy is evidently deemed a matter of common knowledge. We are not disposed to sanction inquiries of greater scope." (at pp. 23-24)

The court ordered that Question 26 be "omitted or rephrased" within 90 days and that present applicants be permitted to "answer Question 26

only as limited to membership in organizations known to them to be then teaching or advocating overthrow of the Government by force or violence" (Judge Friendly's opinion at p. 27).

We respectfully submit that in light of Judge Friendly's reasoned opinion and the many recent Supreme Court decisions he and Judge Motley (dissenting) rely upon, Mr. Stolar was justified in refusing to answer the questions involved in this matter and that such refusal cannot, consistent with the First Amendment, be the basis for denying his application. Because of the time problem here with respect to the impending bar examination of March 4, 5 and 6 for which Mr. Stolar has been preparing, we respectfully request that

he be admitted to that examination so that he will not be penalized for asserting his First and Fifth Amendment rights.

The Court may desire Mr. Stolar to answer Question 12(g) as rephrased in accordance with Judge Friendly's opinion, but we think that this matter should be considered after the applicant has had an opportunity to take the examination. This would permit sufficient time for full briefing and argumentation on the applicant's claim of his Fifth Amendment rights (see Spevack v. Klein, 385 U.S. 511), an issue not involved in the case before Judge Friendly, and other First Amendment objections regarding the power to issue and the propriety of such a question, even as rephrased. These First Amendment ob-

jections were explored in Judge Motley's dissenting opinion and were the basis for the Judge's order convoking the three-judge court (see 291 F. Supp. 772). Another recent opinion fully developing these objections may be found in Haskett v. Washington, Civ. No. 2007-68 (D.D.C., Dec. 4, 1968, Skelley-Wright, Circuit Judge, concurring). (A copy of this decision, not yet officially reported, is submitted herewith for the convenience of the Court.)

We further request an opportunity for oral presentation regarding the issues raised in this matter, preferably this week. If upon the receipt of this letter the Court has already decided to deny Mr. Stolar's application,

we respectfully urge reconsideration in light of the above information and further presentation during oral argument.

Yours truly,

Leonard B. Boudin
Rabinowitz, Boudin & Standard
30 East 42nd Street
New York, N.Y. 10017
(212) OX. 7-6640

William Boyland
Campbell & Boyland
78 East State Street
Columbus, Ohio
(614) 224-6262

Attorneys for the Applicant

LBB:j

cc:

William H. Schneider, Esq.
Columbus Bar Association
Committee on Admissions
40 South Third Street
Columbus, Ohio 43215

**Petitioner's Letter to Committee**

EXHIBIT A

999 Caldwell Place
Apartment 1409
Columbus, O. 43203

February 10, 1969

William H. Schneider, Esq.
Columbus Bar Association
Committee on Admissions
40 South Third Street
Columbus, Ohio 43215

Dear Mr. Schneider:

I am in receipt of your letter of February 7, advising me of your Committee's denial of my application. Please be informed that I will not change my answers to questions 12(g), 13 and 7 of the two application forms. This will be my position on February 21, 1969 also.

It is my belief that such questions are not within the proper scope of review for a Bar Association Committee on Admissions and in any event, the answers to such questions are protected by the First and Fifth Amendments of the United States Constitution.

I urge your committee to reconsider its decision. In the event that they do not, or do reconsider and reach the same conclusion, I would appreciate your informing me as soon as possible. In any event,

I would like to know if I am entitled to a hearing before the Supreme Court and if so, I request such a hearing with counsel.

I would appreciate your acting and responding with dispatch in this matter since the examination is but a short time away.

Yours very truly,

Martin R. Stolar

MRS/s

CERTIFIED MAIL
RETURN RECEIPT REQUESTED